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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,457	12/03/2003	Timothy E. Allen	LOT920030035US1	6712
23550 7590 04/21/2008 HOFFMAN WARNICK & D'ALESSANDRO, LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207				
EXAMINER CHEEMA, UMAR				
ART UNIT 2144		PAPER NUMBER		
NOTIFICATION DATE 04/21/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

### Office Action Summary

**Application No.**

10/726,457

**Applicant(s)**

ALLEN ET AL.

**Examiner**

UMAR CHEEMA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8,10-13,17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-13,17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is response to Request for Continued Examination (RCE) transmitted on 25 March 2008. Claims 1, 3-8, 10-13, 17, and 19-23 are pending in the present application. Claims 1, 8, and 17 has been amended and claims 2, 9, 14-16, and 18 has been cancelled.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 March 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 3-8, 10-13, 17, and 19-23 have been considered but are moot in view of the new ground(s) of rejections.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 8, 10-13, 17, -19-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. According to specification

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par. 0039, the claims 8, 10-13 are directed to hardware and software or a combination of hardware and software and claims 17 and 19-23 are directed to program products, which are directed to non-statutory subject matter. Therefore, the claims as whole are found to be directed to a non-statutory subject matter.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Virta (US 2005/0065832) in view of Wies et al. (Wies) (US 7,159,008) and further in view of Achacoso et al. (Achacoso) (US 6,161,149).

Regarding claim 1, Virta discloses substantially the invention as claimed a method for comparing free time for members of a chat, comprising: storing individual calendars

corresponding to each member of the chat (par. [0013]; user's personal time, and storing at least one respective interval of time) and at least one person who is not a member of the chat; initiating a free time comparison (par. [0002]; free time slots) in response to an actuation of a selection mechanism via a chat interface, the chat interface comprising a chat area for displaying a dialog between the members of the chat; combining the individual calendars corresponding to each member of the chat and the at least one person who is not a member of the chat into a free time summary calendar (par. [0012]; combine two or more calendar databases into one combined calendar database), wherein the free time summary calendar indicates at least one of free time periods that are simultaneously available to all of the members of the chat (par. [0002]; simultaneous free time slot, par. [0014]) and the at least one person who is not a member of the chat and conflict time periods during which at least two chat members simultaneously have an event scheduled (fig. 1, par. [0031]; scheduling conflict); and enlarging the chat interface and displaying the free time summary calendar adjacent to the chat area of the chat interface.

Virta substantially discloses the invention for the above reason however does not explicitly disclose wherein said chat interface, at least one person who is not a member of the chat, in response to an actuation of a selection mechanism via a chat interface, the chat interface comprising a chat area for displaying a dialog between the members of the chat, and enlarging the chat interface and displaying the free time summary calendar adjacent to the chat area of the chat interface.

In the same field of invention, Wies and Achacoso discloses wherein said chat interface (see Wies: col. 2, lines 5-15; chat interface), at least one person who is not a member of the chat ( see Achacoso: abstract, col. 1, lines 5-17; communication information among members of a distributed discussion group having peripheral communication devices involves communication between the peripheral communication and central agent and the central agent receives and stores messages intended for at least one other group member), in response to an actuation of a selection mechanism via a chat interface, the chat interface comprising a chat area for displaying a dialog between the members of the chat (see Achacoso: figures 3-4; col. 9, lines 7-29; chat window 104 displays the text messages typed in by the user as well as messages sent from other users that are currently connected . .etc.), and enlarging the chat interface and displaying the free time summary calendar adjacent to the chat area of the chat interface (see Achacoso: figures 3-4; col. 9, lines 7-29 and detail description of figures).

It would have been obvious to one of the ordinary skill in the art of networking at the time of the invention to combine the teaching of Virta, Wies, and Achacoso for comparing free time for chat members. Motivation for doing so would have been comprises a user calendar database for integrating data from the personal time recorder and the interval storage unit into the electronic schedule (see Virta: par. [0015], lines 5-8).

Regarding claim 2, (Cancelled).

Regarding claim 3, Virta discloses the method of claim 1, wherein the free time summary calendar indicates free time periods and conflict time periods in a format selected from the group consisting of a day view format, week view format, and month view format (par. [0024]).

Regarding claim 4, Virta discloses the method of claim 3, wherein the day view format and the week view format indicate free time periods and conflict time periods during a predetermined time span (par. [0014], [0024], [0031]).

Regarding claim 5, Virta discloses the method of claim 3, wherein the day view format and the week view format indicate free time periods that are simultaneously available to all of the members of the chat (par. [0002]; simultaneous free time slot, par. [0024]).

Regarding claim 6, Virta discloses the method of claim 3, wherein the month view indicates free days during which there is at least one simultaneously available free time period for all of the members of the chat (par. [0002]; simultaneous free time slot, par. [0014]), and conflict days during which there are no simultaneously available free time periods for all of the members of the chat (fig. 1, par. [0031]; scheduling conflict).

Regarding claim 7, Virta discloses the method of claim 3, further comprising: switching between the day view format, week view format, and month view format (par. [0024]).

Regarding claim 8, Virta discloses substantially the invention as claimed a system for comparing free time for members of a chat, comprising: a storage unit for storing individual calendars corresponding to each member of the chat (par. [0013]; user's personal time, and storing at least one respective interval of time) and at least one person who is not a member of the chat; a system for initiating a free time comparison (par. [0002]; free time slots) in response to an actuation of a selection mechanism via a chat interface, the chat interface comprising a chat area for displaying a dialog between the members of the chat; a free time summary calendar system for combining the individual calendars corresponding to each member of the chat and the at least one person who is not a member of the chat into a free time summary calendar (par. [0012]; combine two or more calendar databases into one combined calendar database), wherein the free time summary calendar indicates at least one of free time periods that are simultaneously available to all of the members of the chat ((par. [0002]; simultaneous free time slot, par. [0014]) and the at least one person who is not a member of the chat and conflict time periods during which at least two chat members simultaneously have an event scheduled (fig. 1, par. [0031]; scheduling conflict); and a display for displaying the free time summary calendar (par. [0012]), wherein the chat interface is enlarged and the free time summary calendar is displayed adjacent to the chat area of the chat interface.

Virta substantially discloses the invention for the given reason above however does not explicitly disclose wherein said chat interface, at least one person who is not a member of the chat, in response to an actuation of a selection mechanism via a chat



interface, the chat interface comprising a chat area for displaying a dialog between the members of the chat, and wherein the chat interface is enlarged and the free time summary calendar is displayed adjacent to the chat area of the chat interface.

In the same field of invention, Wies and Achacoso disclose wherein said chat interface (see col. 2, lines 5-15; chat interface), at least one person who is not a member of the chat (see Achacoso: abstract, col. 1, lines 5-17; communication information among members of a distributed discussion group having peripheral communication devices involves communication between the peripheral communication and central agent and the central agent receives and stores messages intended for at least one other group member), in response to an actuation of a selection mechanism via a chat interface, the chat interface comprising a chat area for displaying a dialog between the members of the chat (see Achacoso: figures 3-4; col. 9, lines 7-29; chat window 104 displays the text messages typed in by the user as well as messages sent from other users that are currently connected . .etc.), and wherein the chat interface is enlarged and the free time summary calendar is displayed adjacent to the chat area of the chat interface (see Achacoso: figures 3-4; col. 9, lines 7-29 and detail description of figures).

It would have been obvious to one of the ordinary skill in the art of networking at the time of the invention to combine the teaching of Virta, Wies and Achacoso for comparing free time for chat members. Motivation for doing so would have been comprises a user calendar database for integrating data from the personal time recorder

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and the interval storage unit into the electronic schedule (see Virta: par. [0015], lines 5-8).

Regarding claim 9, (Cancelled).

Regarding claim 10, the limitation of this claim has already been addressed above (see claim 3 above).

Regarding claim 11, the limitation of this claim has already been addressed above (see claim 4 above).

Regarding claim 12, the limitation of this claim has already been addressed above (see claim 5 above).

Regarding claim 13, the limitation of this claim has already been addressed above (see claim 6 above).

Regarding claims 14-16, (Cancelled).

Regarding Independent claim 17, the limitation of this claim has already been addressed above (see Independent claim 1 above) except a program product stored on

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a computer-readable medium for comparing free time for members of a chat, which Virta discloses (see abstract, par. [0014], [0034]; computer readable medium).

Regarding claim 18, (Cancelled).

Regarding claim 19, the limitation of this claim has already been addressed above (see claim 3 above).

Regarding claim 20, the limitation of this claim has already been addressed above (see claim 4 above).

Regarding claim 21, the limitation of this claim has already been addressed above (see claim 5 above).

Regarding claim 22, the limitation of this claim has already been addressed above (see claim 6 above).

Regarding claim 23, the limitation of this claim has already been addressed above (see claim 7 above).

### ***Conclusion***

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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see the form PTO-892 (Notice of Cited Reference) for a list of more relevant prior arts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to UMAR CHEEMA whose telephone number is (571)270-3037. The examiner can normally be reached on M-F 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Jr. Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144